

**Senate Select Committee on School Safety Hearing on
“Sexual Orientation, Gender Identity Discrimination and School Safety”
Plummer Park- Fiesta Hall, West Hollywood
October 3, 2002**

**Written Testimony Submitted by Kirk Bell, Policy Implementation Specialist for the
Gay, Lesbian and Straight Education Network**

**IMPLEMENTATION OF LGB/LGBT-INCLUSIVE SAFE SCHOOLS
LEGISLATION IN OTHER STATES**

The District of Columbia and seven states in addition to California have passed some form of lesbian/gay/bisexual (LGB)- or lesbian/gay/bisexual/transgender (LGBT)- inclusive safe schools legislation. Many of these states have started to implement their respective laws and, in so doing, are making a sustainable difference in the lives of students.

For example, Minnesota’s LGBT-inclusive civil rights law has compelled state education and health officials to administer a comprehensive reporting system for anti-LGBT harassment, to include LGBT-inclusive questions on its Minnesota Student Survey, to distribute educational resources and materials to every school district in the state, to produce an awareness campaign, and to facilitate community forums on harassment and discrimination.

Massachusetts, another state that has had an LGB-inclusive non-discrimination education statute for many years, has a comprehensive state-funded program for implementation, including a Coordinated Program Review process. Massachusetts wisely has a Governor’s Commission on Gay and Lesbian Youth that provides oversight, produces reports and awareness campaigns, coordinates various programs, works with local community-based organizations, and oversees the state’s Safe Schools Program.

Other states have also engaged in comprehensive implementation of LGB-inclusive safe schools legislation. Vermont provides training for local school district employees designated to oversee complaint procedures. The District of Columbia has set up a permanent task force to oversee implementation of its LGB-inclusive anti-harassment education statute. This task force includes school administrators, union representatives, a student representative, and community leaders. Even in Oregon, a state without LGBT-inclusive safe schools legislation, the state department of education has, in the past, participated with the Oregon Safe Schools and Communities Coalition to prepare trainers to train school staffs on LGBT issues.

Though the California Student Safety and Violence Prevention Act of 2000 (formerly AB 537) is comprehensive in scope, though it is relatively rare in its inclusion of protections based on gender identity and expression, and though the law is already almost three years old, California has a long way to go even to begin to implement the law or to “catch up” with implementation in other states with such legislation. California has yet to officially and formally implement AB 537. Even though State Superintendent Delaine Eastin initiated an appropriate first step in establishing the AB 537 Advisory Task Force to make recommendations for implementation of the law, the state has not yet publicly accepted nor officially initiated any of those recommendations.

GLSEN, the Gay, Lesbian and Straight Education Network knows that California's students are sorely in need of implementation of AB 537, the California Student Safety and Violence Prevention Act of 2000. Even though the California law was enacted in January 2000, responses from GLSEN's 2001 National School Climate Survey indicate that:

- California students were 41% more likely to report in-school physical harassment because of sexual orientation than students from other states with long-standing safe schools laws
- California's students were 12% more likely to report in-school sexual harassment because of sexual orientation than students from other states with long-standing safe schools laws
- California's students were 18% more likely to report feeling unsafe in school because of sexual orientation than students in states with long-standing safe schools laws

Given the fact that AB 537 presumably protects California's students from harassment, it is particularly profound should be disheartening – to Californians – to learn that:

- Students from other states with longstanding safe schools laws were 76% more likely to report that faculty or staff intervened “always” or “most of the time” when homophobic remarks are made than students from California

Clearly, GLSEN believes that California must initiate steps to ensure that its school administrative, teaching, and support staff are fully aware of their responsibilities and rights under the law and that they are trained to effectively uphold the law. Similarly, GLSEN believes that California must initiate steps to ensure that its students are fully informed and aware of their rights and responsibilities under the law. Though non-governmental agencies and non-profit organizations and individuals may be of assistance, the state should not abrogate its responsibility to implement the law or to inform students, parents, and school staff about the law.

In short, GLSEN expects California to take the following steps to implement the California Student Safety and Violence Prevention Act of 2000:

1. Officially and publicly adopt the Recommendations of the AB 537 Advisory Task Force
2. Inform every student, parent, school administrator, classroom teacher, and school support staff member of their responsibilities and rights under the law.
3. Establish a permanent task force of youth and adults who will advise the CA State Department of Education on LGBT-related issues and recommend changes in policy and legislation.

For each state that has LGB or LGBT-inclusive safe schools legislation or statewide policy, attached is basic education data, a brief description of the types of laws enacted, what each safe schools law includes, and the degrees to which each law has been implemented by respective state departments of education and non-governmental agencies.

MASSACHUSETTS

Basic education data:

- 244 school districts
- 975,150 students
- 23.91% students of color

Types of law:

- Education Statute; Non-Discrimination; includes “sexual orientation;” applies to public and charter schools; includes explicit private right of action
- Non-Discrimination Law that includes public employment and education

What the law includes:

1. Required State-funded Safe Schools Program
2. Districts must inform staff of law
3. Notice must be provided to all students and parents

What has been/is being done to implement the law:

1. Comprehensive state-funded program for implementation, including a Coordinated Program Review process
2. Governor’s Commission on Gay and Lesbian Youth which provides oversight, produces reports and awareness campaigns, coordinates various programs, works with local community based organizations, and oversees the Safe Schools Program; it should be noted that this program’s budget was cut in half in this year’s across-the-board state budget cuts.
3. State’s Youth Risk Behavior Survey (YRBS) now includes questions that are LGBT-inclusive; this is administered every two years
4. Problem Resolution Department and procedures have been publicized
5. There are paid staff at the state level and in some districts for handling complaints, implementing preventive measures
6. All high schools are required to allow Gay Straight Alliances (GSA’s)
7. State Student Council Public Service Announcements
8. Engagement in policy review (submission of inclusive policy by each district required), inclusive disciplinary codes and inclusive language require in student handbooks

VERMONT

Basic education data:

- 246 school districts
- 102,049 students
- 3.66% students of color

Type of law:

- Educate Statute; Anti-Harassment that includes “sexual orientation;” covers public and independent schools and post secondary schools; does not include explicit private right of action
- Human Rights Law that includes “education”

What the law includes:

1. Local districts must have policies at least as stringent as the State Model Policy.
2. Schools must create compliant procedures
3. Age-appropriate notice of the policy must be provided to students, parents/guardians, and staff
4. Requirement to report incidents when they happen

What has been/is being done to implement the law

1. Notice by State Education Commissioner to all superintendents and principals of policy
2. Training for district employees designated to oversee complaint procedures

THE DISTRICT OF COLUMBIA

Basic education data:

- 1 school district
- 68,925 students
- 95.48% students of color

Types of law:

- Education Statute; Anti-Harassment; includes “sexual orientation;” public, private schools included; religious schools exempted; explicit private right of action
- Human Rights Act

What the law includes:

1. New comprehensive implementation plan, with *respect for coming out* as its centerpiece
2. Required compliance to procedures, including incident reporting
3. Focuses on all grades (K-12)

What has been/is being done to implement the law:

1. Task force set up for implementation oversight: Includes administrators, union representatives, a student representative and community group members
2. Clarification that Transgender students are included
3. Plans to train teachers and other educators (by GLSEN and others)
4. Comprehensive plan for awareness (e.g. Q&A flyer, handbook)
5. Package of materials / letter to each principal outlining policy, updates and implementation plan

MINNESOTA

Basic education data:

- 410 school districts
- 854,340 students
- 17.07% students of color

Type of law:

Civil Rights Statute; Non-Discrimination; includes “sexual orientation” and “gender identity;” covers all public, private, higher education, professional, vocational, technical institutes and any agents of educational institutions; includes private right of action

What the law includes:

1. Commissioner of Education required to develop policies to help with compliance
2. Commissioner of Education required to provide technical assistance

What has been/is being done to implement the law

1. Resource on bullying (<http://cfl.state.mn.us/bullying/bullying.pdf>)
2. Requirements of policies displayed throughout each school building
3. Comprehensive reporting system
4. Minnesota Student Survey (YRBS – CDC Survey) has LGBT-inclusive questions
5. Youth Advisory Council involvement, student participation in planning, and Youth Summits
6. Distribution of educational resources/materials to every school district in the state
7. Prevention and intervention grants made available
8. Awareness campaign including Fact Sheets and brochures

9. Inclusion of policies and procedures on State website
10. The State Department of Children, Families and Learning facilitates community forums on harassment and discrimination; educates communities on all forms
11. Focus on all constituencies (parents and community members as well as educators)

CONNECTICUT

Basic Education Data:

- 166 school districts
- 562,179 students
- 29.93% students of color

Type of law:

- Education Statute; Non-Discrimination; includes “sexual orientation;” does not include explicit private right of action
- Non-Discrimination Law that includes education

What the law includes:

1. Each district must develop and enforce student and staff behavior and disciplinary policies

What has been/is being done to implement the law:

1. Publication and distribution of a brochure on sexual orientation to all K-12 schools in the state
2. Most implementation of the law has been encouraged and facilitated by social activist organizations like GLSEN – Connecticut. For example, the law has been used as leverage to encourage schools to provide teacher trainings

WISCONSIN

Basic Education Data:

- 431 school districts
- 879,476 students
- 19.27% students of color

Type of law:

- Education Statute; Non-Discrimination; includes “sexual orientation;” covers public and charter schools; does not include explicit private right of action
- Non-Discrimination Law that includes education

What the law includes:

1. Districts are required to have a policy; implementation is determined at the local level.
2. The state surveys districts to check that policies are in place and posted.

What is has been done/is being done to implement the law:

1. Pro-active implementation varies widely. Some may do nothing while Madison has hired a full time LBGT resource teacher.

WASHINGTON STATE

Basic Education Data:

- 296 school districts
- 1,004,770 students
- 25.58% students of color

Type of law:

- Education Statute on Anti-Harassment; includes “sexual orientation;” covers public schools
- Non-Discrimination law that protects public employees

What the law includes:

1. Requires public school districts to develop anti-harassment policies
2. Requires State Superintendent for Public Instruction to develop model local anti-harassment policy that is LGB-inclusive

What has been/is being done to implement the law:

1. The State Superintendent of Public Instruction has developed and distributed a model local anti-harassment policy that is LGBT-inclusive.
2. Most implementation of the law has been encouraged and facilitated by organizations like the Safe Schools Coalition (formerly the WA Safe Schools Coalition), which has extensively:
 - a. Surveyed anti-harassment and non-discrimination policies in over 200 local WA school districts for LGBT-inclusion and developed and is distributing its own model policy
 - b. Conducts LGBT-inclusive trainings for school staff throughout the state
 - c. Coordinates intervention as needed for individual students who have experienced in-school harassment

NEW JERSEY

Basic Education Data:

- 675 school districts
- 1.3 million students

Type of Law:

- Education Statute on Anti-Harassment; includes “sexual orientation” and “gender identity”
- Supplements existing anti-harassment law

What the law includes:

Mandates state department of education to adopt, implement, and publicize policies related to the law.

What has been/is being done to implement the law:

New Jersey just recently passed its LGB-inclusive education law, so information about its implementation is not provided here.